BOMBAY ACT No. VI OF 1950.[1]

[THE BOMBAY KHOTI ABOLITION ACT, 1949.]

[*3rd April 1950*]

Amended by Bom. 18 of 1950.
" " " 3 of 1952.

An Act to abolish the khoti tenure in the [2][State of Bombay].

WHEREAS it is expedient to abolish the khoti tenure prevailing in the districts of Ratnagiri and Kolaba in the [2][State of Bombay] and to provide for certain consequential and incidental matters hereinafter appearing ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Khoti Abolition Act, 1949.

(*2*) It extends to the districts of Ratnagiri and Kolaba as constituted immediately before the thirtieth day of July 1948.

(*3*) It shall come into force on such date as the [3][State Government] may, by notification in the *Official Gazette*, specify.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*i*) " Code " means the Bombay Land Revenue Code, 1879 ;

Bom. V of 1879.

(*ii*) " dhara land " means land held by a dharekari and in the Ratnagiri district includes land held by a quasidharekari ;

(*iii*) " dharekari " means a landholder who holds land on the dhara tenure ;

(*iv*) " khot" includes,—

(*a*) a mortgagee lawfully in possession of a khotki,

(*b*) all co-sharers in a khotki ;

Bom. I of 1880.

(*v*) " Khoti Act " means the Khoti Settlement Act, 1880 ;

(*vi*) " khot's dues " means,—

(*a*) the rent paid to a khot by a quasidharekari or permanent tenant of khoti land in the district of Ratnagiri, in accordance with the provisions of section 33 of the Khoti Act, and

Bom. I of 1865.

(*b*) the khoti fayda paid by any tenant of the khoti nisbat land in the district of Kolaba, in accordance with the terms of the Kabulayat or in accordance with the orders passed under section 38 of the Khots Leases Act, 1865,

Bom. VI of 1923.

exclusive of the survey assessment due to the [3][State Government] and the cess leviable under section 93 of the Bombay Local Boards Act, 1923, in respect of such land ;

(*vii*) " khoti khasgi land " means,—

(*a*) in the Ratnagiri District, khoti land held by and in possession of a khot other than khoti nisbat land and land held by a privileged occupant as defined in the Khoti Act ;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1949, Part V, pp. 205-206.

[2] These words were substituted for the words " Province of Bombay " by Bom. 18 of 1950, s. 2 (*i*).

[3] These words were substituted for the words " Provincial Government ", *ibid*, s. 2 (*ii*).

(*b*) in the Kolaba District,—

(*i*) land which is entered in the khot's own name as khoti khasgi or in that of a co-sharer in a khotki in the records of the original survey ; and

(*ii*) land acquired since the original survey by the khot by purchase or other lawful transfer otherwise than in his capacity as a khot ;

(*viii*) " khoti land " means land in respect of which a khot had, as such, any right or interest in the district of Ratnagiri according to the provisions of the Khoti Act and in the district of Kolaba according to the custom of the tenure ;

(*ix*) " khoti nisbat land " means,—

(*a*) in the district of Ratnagiri land which in a khoti village before the coming into force of this Act has reverted to the khot under section 10 of the Khoti Act;

(*b*) in the district of Kolaba,—

(*i*) land in a khoti village which may have come into the possession of the khot by lapse for failure of heirs of a tenant or by forfeiture on the tenant's failure to pay rent or by the resignation of the tenant ;

(*ii*) land which may have been entered at the original survey in the khoti nisbat padit khata and since brought into cultivation otherwise than at the khot's own expenses ;

(*x*) " khoti village " means a village, or a portion or share of a village, to the extent to which a khot has any right or interest in such village, or portion or share thereof ;

(*xi*) " permanent tenant " means a holder of khoti land who has a permanent tenancy in such land ;

(*xii*) " quasidharekari " means a landholder of any of the denominations, named in the first column of the Schedule to the Khoti Act.

(*2*) Any word or expression which is defined in the Code and not defined in this Act shall be deemed to have the meaning given to it by the Code

(*3*) References in this Act to the provisions of the Khoti Act and the incidents of the khoti tenure shall, notwithstanding the repeal of the said Act and the abolition of the said tenure by this Act, be construed as references to the said provisions and incidents as they were in force immediately before this Act comes into force.

Abolition of khoti tenure.

3. With effect from and on the date on which this Act comes into force,—

(*1*) the khoti tenure shall, wherever it prevails in the districts of Ratnagiri and Kolaba, be deemed to have been abolished ; and

(*2*) save as expressly provided by this Act, all the incidents of the said tenure shall be deemed to have been extinguished, notwithstanding any law, custom, or usage or anything contained in any sanad, grant, kabulayat, lease, decree or order of any court or any other instrument.

Khot, dharekari and tenants to be occupants.

4. (*1*) (*a*) In the case of khoti khasgi land, the khot ;

(*b*) in the case of a dhara land, the dharekari or quasidharekari ;

(*c*) in the case of land held by a permanent tenant, the permanent tenant ;

(*d*) (*i*) in the case of khoti nisbat land, any tenant in possession of the land ; and

(*2*) Such application shall be made in the form prescribed by rules made under this Act [1][on or before the 31st day of March 1952].

(*3*) The Collector shall after holding a formal inquiry in the manner provided by the Code award such compensation as he deems reasonable and adequate :

Provided that—

(*a*) the amount of compensation for the extinguishment of the right of reversion in lands in a khoti village in the district of Ratnagiri shall not exceed the amount calculated at the rate of Rs. 2 per 100 acres of such land ;

(*b*) the amount of compensation for the extinguishment of any right to appropriate any uncultivated and waste lands not appropriated by any khot and not entered in the revenue or survey records as khoti khasgi immediately before the 1st day of August 1949, shall not exceed the amount calculated at the rate of Rs. 5 per 100 acres of such land :

Provided further that in the case of the extinguishment or modification of any other right of a khot or any right of any other person the Collector shall be guided by the provisions of sub-section (*1*) of section 23 and section 24 of the Land Acquisition Act, 1894 :

I of 1894.

Provided also that if any question arises whether any land is dhara, khoti khasgi or khoti nisbat or is held by a permanent tenant or other tenant, the Collector shall after holding a formal inquiry in the manner provided by the Code decide the question.

(*4*) Subject to the provisions of sub-section (*5*), the award or decision of the Collector shall be final.

(*5*) Any person aggrieved by the award or decision of the Collector may appeal to the Bombay Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1939.

Bom. XII of 1939.

(*6*) In deciding appeals under sub-section (*5*), the Bombay Revenue Tribunal shall exercise all the powers which a Court has and follow the same procedure which a Court follows in deciding appeals from the decree or order of an original Court under the Code of Civil Procedure, 1908.

V of 1908.

13. Every appeal made under this Act to the Bombay Revenue Tribunal shall be filed within a period of sixty days from the date of the award of the Collector. The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the filing of such appeal. Limitation.

IX of 1908.

14. Notwithstanding anything contained in the Court-fees Act, 1870, every appeal made under this Act to the Bombay Revenue Tribunal shall bear a court-fee stamp of such value as may be prescribed. Court-fees.

VII of 1870.

15. Nothing in this Act shall in any way be deemed to affect the application of any of the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, to any of the khoti lands or the mutual rights and obligations of a khot and his tenants, save in so far as the said provisions are not in any way inconsistent with the express provisions of this Act. Provisions of Bom. LXVII of 1948 to govern the relations of khot and tenants.

Bom. LXVII of 1948.

16. The [2][State Government] may make rules for the purpose of carrying out the provisions of this Act. Such rules shall be subject to the condition of previous publication and shall, when finally made, be published in the *Official Gazette*. Rules.

[1] These words, figures and letters were substituted for the words " within six months from the date on which this Act comes into force " by Bom. 3 of 1952, s. 2 Schedule.

[2] These words were substituted for the words " Provincial Government " by Bom. 18 of 1950, s. 2 (*ii*).

Repeal.

17. The enactments specified in the schedule are hereby repealed to the extent specified in column 4 thereof :

Provided that the repeal of the said enactments and the provision declaring any incident of the khoti tenure to have been extinguished shall not in any way affect any legal proceeding pending at the date of the commencement of this Act and such legal proceeding shall be continued and finally disposed of as if this Act had not been passed.

SCHEDULE.

(*See* section 17.)

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1865	I	The Khots Leases Act, 1865	Sections 37 and 38.
1879	V	The Bombay Land Revenue Code, 1879 ..	Section 114.
1880	I	The Khoti Settlement Act, 1880	The whole.